

U.S. DEPARTMENT OF ENERGY
FY 1998 CONGRESSIONAL BUDGET
ECONOMIC REGULATION
(Tabular dollars in thousands, Narrative dollars in whole dollars)

COMPLIANCE

PROGRAM MISSION

The mission of the Compliance program is substantially completed. Accordingly, no new funding authority was requested for FY 1997 and none is requested for FY 1998. The funds carried over from FY 1996 are expected to be sufficient to provide for the remaining workload.

In June 1993, as part of Secretary O'Leary's reorganization plan, the Economic Regulatory Administration and its sole remaining activity, the Compliance program, were realigned under the Office of General Counsel. As of December 1994, the Economic Regulatory Administration ceased to be an operational entity, and its functions were transferred to program elements within the Office of General Counsel.

The Compliance program administers the enforcement activities resulting from a wide spectrum of pricing and allocation regulations that governed the petroleum industry throughout most of the 1970's. Foremost among these was the Emergency Petroleum Allocation Act of 1973 (EPAA) which was in effect from October 1973 through January 1981. The Compliance program has audited approximately 100,000 petroleum firms and effected nearly \$9 billion in oil overcharge recoveries. The monies collected through this program are paid in direct restitution to identifiable overcharged parties (\$2.1 billion), in indirect restitution to the States and Territories (\$4.8 billion), who fund energy and energy conservation programs, and to the United States Treasury (\$2 billion). Currently there are still 10 cases at some stage of litigation, and it is expected that most of these will be resolved by the end of FY 1997.

PERFORMANCE MEASUREMENTS

Substantially resolve all remaining EPAA litigation cases (10) in FY 1997.

ECONOMIC REGULATION

PROGRAM FUNDING PROFILE

<u>Sub-program</u>	FY 1996 <u>Enacted</u>	FY 1997 <u>Request</u>	FY 1998 <u>Base</u>	FY 1998 <u>Request</u>	Program Change <u>Request vs. Base</u>	
					<u>Dollar</u>	<u>Percent</u>
Compliance						
Operating Expenses	\$4,175	\$ 0	\$ 0	\$ 0	\$ 0	0
Adjustments (a)	<u>(550)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	0
Total	\$3,625	\$ 0	\$ 0	\$ 0	0	0
Staffing						
Headquarters FTE's	28	0	0	0	0	0
Field FTE's	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	0
Total FTE's	29	0	0	0	0	0

(a) Use of prior year funds

DEPARTMENT OF ENERGY
FY 1998 OMB BUDGET REQUEST
ECONOMIC REGULATION
(dollars in thousands)

APPROPRIATION / FTE's / ACCOMPLISHMENTS

Compliance

	FY 1996 <u>Actual</u>	FY 1997 <u>Estimate</u>	FY 1998 <u>Estimate</u>
o Appropriation.....	\$ 3,625	\$ 0	\$ 0
o Full-time Equivalents Funded.....	29	0	0
o Proposed Remedial Orders Issued.....	0	0	0
o Administration Litigation Cases at Start of Fiscal Year.....	2	0	0
o Judicial Litigation Cases at Start of Fiscal Year.....	14	10	0
o Cases Resolved by Negotiated Settlement & Litigation.....	6 (1)	10	0

(1) This is an estimated number.

Any FTE and support service requirements for cases remaining after FY 1996 will be funded using carryover from FY 1996.

**DEPARTMENT OF ENERGY
FY 1998 CONGRESSIONAL BUDGET REQUEST
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OFFICE OF HEARINGS AND APPEALS

PROGRAM MISSION

Overview: The Office of Hearings and Appeals (OHA) is responsible for all of the Department's adjudicatory processes, other than those administered by the Federal Energy Regulatory Commission. OHA was created to adjudicate cases arising under the Emergency Petroleum Allocation Act of 1973 (EPAA), and continues to conduct refund proceedings returning petroleum overcharge funds that are collected by the Department to the parties who were injured by those overcharges, and to the states and federal government for indirect restitution. OHA continues to receive refund applications, although at a lower rate than in past years. In addition, OHA continues to work on matters connected with EPAA-related enforcement proceedings that are before the federal courts or that have been remanded to OHA. In addition, OHA will continue to process Applications for Exception from the reporting requirements of the Energy Information Administration, a DOE entity funded through the Interior and Related Agencies Appropriations Bill.

Goal: The Goal of OHA is to continue to issue high quality, articulate decisions that fairly and equitably resolve the matters that are brought before it. In doing so OHA must consider the interests of all concerned parties — the public and state and federal governments, as well as individual litigants.

Performance Measures & Accomplishments: OHA has been highly successful in fulfilling its mission. Most measures of its performance are qualitative rather than quantitative. The primary performance measures are:

- Record on Appeal: OHA has had and projects that it will continue to have a remarkably successful record of having its decisions upheld on appeal.
- Number of Cases Resolved: OHA resolved 4,804 refund cases during FY 1996, and expects to resolve 2,900 applications in FY 1997 and 2,700 in FY 1998.
- Distribution of Refunds: As of the end of FY 1995, OHA has returned about \$5 billion in petroleum overcharge funds to individual refund applicants, the states and the federal government. During FY 1996, OHA directed payment of more than \$290 million in overcharge funds.

DEPARTMENT OF ENERGY
FY 1998 CONGRESSIONAL BUDGET REQUEST
ECONOMIC REGULATION
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PROGRAM FUNDING PROFILE

OFFICE OF HEARINGS AND APPEALS

Activity -----	FY 1996 Enacted -----	FY 1997 Enacted -----	FY 1998 Base -----	FY 1998 Request -----	Program Change -----	
					Dollar -----	Percent -----
Office of Hearings and Appeals Operating Expenses	\$ 3,212	\$ 2,725	\$ 2,725	\$ 2,725	\$ 0	0%
Adjustment <u>a/</u>	-540					
Total	\$ 2,672 =====	\$ 2,725 =====	\$ 2,725 =====	\$ 2,725 =====	\$ 0 =====	0% =====
Summary						
Operating Expenses	\$ 2,672 -----	\$ 2,725 -----	\$ 2,725 -----	\$ 2,725 -----	\$ 0 -----	0% -----
Total Program	\$ 2,672 =====	\$ 2,725 =====	\$ 2,725 =====	\$ 2,725 =====	\$ 0 =====	0% =====
Staffing — HQ FTEs <u>b/</u>	59	54	54	25		

Authorizations:

Pub. Law 95-91, DOE Organization Act; Pub. Law 99-509, Petroleum Overcharge Distribution and Restitution Act of 1986.

a/ Portion of prior year's unobligated balances that was used for EPAA-related activities.

b/ For FY 1996 and 1997 includes all of OHA's FTEs (except those at the Board of Contract Appeals). For FY 1998 includes only FTEs attributable to EPAA-related activities.

DEPARTMENT OF ENERGY
FY 1998 CONGRESSIONAL BUDGET REQUEST
ECONOMIC REGULATION
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SUMMARY OF CHANGES

OFFICE OF HEARINGS AND APPEALS

FY 1997 Enacted	\$ 2,725
- Non-Discretionary	0
FY 1998 Base	\$ 2,725
Office of Hearings and Appeals	

- No change in funding for this activity is requested. However, because of inflationary cost increases, this reflects in real terms a reduction in OHA's budget request.	0

FY 1998 Congressional Budget Request	\$ 2,725

DEPARTMENT OF ENERGY
FY 1998 CONGRESSIONAL BUDGET REQUEST
ECONOMIC REGULATION
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PROGRAM PERFORMANCE SUMMARY

I. Mission Supporting Goals and Objectives: Office of Hearings and Appeals

The Office of Hearings and Appeals (OHA) is an essential component of the Department's effort to equitably terminate the regulatory program that arose under the Emergency Petroleum Allocation Act of 1973. OHA resolved the last compliance case under the regulatory program in FY 1996. Refund cases do not arise until after an individual compliance case is concluded, and the refunding of petroleum overcharges will be the last portion of the original regulatory program to be concluded. Through refund proceedings OHA returns the monies recovered from oil companies to those who were injured by their regulatory violations. Funds recovered for overcharges in the sale of refined petroleum products are refunded to purchasers of those products. Pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), any funds remaining in a particular refund proceeding after all direct claims are paid are made available to federal energy conservation programs as a means of providing indirect restitution to states and their citizens. OHA's largest refund proceeding is the crude oil proceeding, which distributes funds recovered by the Department arising from overcharges in the sale of crude oil. Because the regulatory program tended to equalize the cost of crude oil to refiners, overcharges on crude oil sales were passed through to the ultimate consumers of petroleum products. Twenty percent of crude oil overcharge funds are distributed to consumer claimants, including individuals, farmers, businesses, hospitals, school districts, cooperatives, public utilities, and governmental entities. Crude oil claimants receive a payment once their application is approved and supplemental payments as additional crude oil overcharge funds are collected by the Department. OHA divides the remaining 80 percent of crude oil overcharge funds equally between the states and the federal government for indirect restitution to injured consumers. OHA's goal is to pay all valid claims and conclude the refund program as soon as circumstances permit. OHA also strives to promptly resolve Applications for Exception from Energy Information Administration reporting requirements.

II. Funding Table: Office of Hearings and Appeals

Program Activity	FY 1996 Enacted	FY 1997 Request	FY 1998 Request	% Change
-----	-----	-----	-----	-----
Case Resolution				
Compliance and Refund Cases	\$ 3,212	\$ 2,725	\$ 2,725	0%
	-----	-----	-----	-----
Subtotal, Case Resolution	\$ 3,212	\$ 2,725	\$ 2,725	0%
Unobligated Balances	-540			
	-----	-----	-----	-----
Total, Office of Hearings and Appeals	\$ 2,672	\$ 2,725	\$ 2,725	0%
	=====	=====	=====	=====

III. Performance Summary

Program Activity	FY 1996	FY 1997	FY 1998
Office of Hearings and Appeals			
Case Resolution			
Compliance & Refund Cases	<p>OHA resolved 4,804 refund cases in FY 1996, and refunded approximately \$25 million in direct refunds to these applicants.</p> <p>OHA continued the distribution started in FY 1995 of supplemental refunds to applicants who had previously been granted crude oil refunds. OHA distributed \$95 million in supplemental refunds.</p>	<p>OHA expects to resolve approximately 2,900 refund claims in FY 1997 and to refund approximately \$15 million in direct restitution to these applicants. OHA's case closure rates for refund applications will decline substantially from prior levels, since most of the remaining cases are complex and are not susceptible to the "batch processing" that was used in the past to process refund claims.</p> <p>OHA will conclude the distribution started in FY 1995 of \$265 million in supplemental refunds to applicants who had previously been granted crude oil refunds.</p>	<p>OHA expects to resolve approximately 2,700 cases in FY 1997 and to refund about \$15 million in direct restitution to these applicants.</p> <p>OHA may commence final payments to successful crude oil applicants by the end of FY 1998. This is conditioned upon conclusion of all enforcement proceedings, so that OHA will know the total amount of crude oil overcharge funds that are available for distribution to injured claimants.</p>

Program Activity

FY 1996

FY 1997

FY 1998

OHA distributed \$16 million to the states as indirect restitution. This concluded the payment of indirect restitution to states under procedures that predated PODRA. Pursuant to PODRA, nearly \$20 million in overcharge funds that were not required for restitution to injured parties were declared excess and made available to state governments for use in four energy conservation programs. In addition, more than \$58 million in crude oil overcharge funds were transferred to the miscellaneous receipts account at the U.S. Treasury to help reduce the federal budget deficit, and over \$78 million in crude oil funds were disbursed to the states.

OHA resolved the last compliance case in its inventory involving the regulations issued pursuant to the Emergency Petroleum Allocation Act of 1973. Unless additional cases are filed or remanded to OHA, this will complete OHA's compliance work.

Pursuant to PODRA, OHA released about \$30 million in excess overcharge funds to state governments for use in energy conservation programs. No estimate can be made at this time of the amount of crude oil overcharge funds that will be distributed to the states or made available to reduce the federal budget deficit. These amounts depend in part upon OHA's staffing levels and upon other matters beyond the control of OHA, such as the effect of court decisions and the amount of oil overcharges that are recovered by the Department and made available for distribution by OHA.

No estimate can be made at this time of the amount of funds that will be made available under PODRA or the amount of crude oil funds that will be distributed to the states or made available to reduce the federal budget deficit.

In order to accomplish these goals, OHA requests funding of \$2.725 million for personnel compensation (\$1,985K), travel (5K), and other services (\$735K). Other services include employee training (\$10K), EIA data processing (\$20K), and the Working Capital Fund for base services: rent, telephone, supplies, postage, building operations, equipment maintenance, printing, and Automated Office Support System support and maintenance (\$645K). OHA will also pay certain support services directly, including purchase of computer equipment and software, and contractual computer support. (\$60K).